

§ 707.2

7 CFR Ch. VII (1–1–16 Edition)

applicable by the individual program regulations.

§ 707.2 Definitions.

“Person” when relating to one who dies, disappears, or becomes incompetent, prior to receiving payment, means a person who has earned a payment in whole or in part pursuant to any of the programs to which this part is applicable. “Children” shall include legally adopted children who shall be entitled to share in any payment in the same manner and to the same extent as legitimate children of natural parents. “Brother” or “sister”, when relating to one who, pursuant to the regulations in this part, is eligible to apply for the payment which is due a person who dies, disappears, or becomes incompetent prior to the receipt of such payment, shall include brothers and sisters of the half blood who shall be considered the same as brothers and sisters of the whole blood. “Payment” means a payment by draft, check or certificate pursuant to any of the Programs to which this part is applicable. Payments shall not be considered received for the purposes of this part until such draft, check or certificate has been negotiated or used.

§ 707.3 Death.

(a) Where any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released in accordance with this section so long as, and only if, a timely program application has been filed by the deceased before the death or filed in a timely way before or after the death by a person legally authorized to act for the deceased. Timeliness will be determined under the relevant program regulations. All program conditions for payment under the relevant program regulations must have been met for the deceased to be considered otherwise eligible for the payment. However, the payment will not be made under this section unless, in addition, a separate release application is filed in accordance with § 707.7. If these conditions are met, payment may be released without regard to the claims of creditors other than the United States, in accordance with the following order of precedence:

(1) To the administrator or executor of the deceased person’s estate.

(2) To the surviving spouse, if there is no administrator or executor and none is expected to be appointed, or if an administrator or executor was appointed but the administration of the estate is closed (i) prior to application by the administrator or executor for such payment or (ii) prior to the time when a check, draft, or certificate issued for such payment to the administrator or executor is negotiated or used.

(3) If there is no surviving spouse, to the sons and daughters in equal shares. Children of a deceased son or daughter of a deceased person shall be entitled to their parent’s share of the payment, share and share alike. If there are no surviving direct descendants of a deceased son or daughter of such deceased person, the share of the payment which otherwise would have been made to such son or daughter shall be divided equally among the surviving sons and daughters of such deceased person and the estates of any deceased sons or daughters where there are surviving direct descendants.

(4) If there is no surviving spouse and no direct descendant, payment shall be made to the father and mother of the deceased person in equal shares, or the whole thereof to the surviving father or mother.

(5) If there is no surviving spouse, no direct descendant, and no surviving parent, payment shall be made to the brothers and sisters of the deceased person in equal shares. Children of a deceased brother or sister shall be entitled to their parent’s share of the payment, share and share alike. If there are no surviving direct descendants of the deceased brother or sister of such deceased person, the share of the payment which otherwise would have been made to such brother or sister shall be divided equally among the surviving brothers and sisters of such deceased person and the estates of any deceased brothers or sisters where there are surviving direct descendants.

(6) If there is no surviving spouse, direct descendant, parent, or brothers or sisters or their descendants, the payment shall be made to the heirs-at-law in accordance with the law of the State of domicile of the deceased person.